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10/754,061	01/09/2004	Masahiro Hinami	27877.77	7687

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EXAMINER

MOSSER, ROBERT E

ART UNIT PAPER NUMBER

3714

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/754,061

Applicant(s)

HINAMI ET AL.

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 1-9-2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-11 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-11 and 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1-9-04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION



Claims 7-10 and 22-30 are rejected.

This action is non-final.

The 1449 submitted on January 9th, 2004 is enclosed.



Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims **7-10** and **22-30** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims **7-10**, **22**, and **30**, recite means plus function type language however the specification fails to provide a basis or example for the claimed means thereby making it impossible to determine what would fall within the range of equivalent means. Remain claims fall through dependency on the independent claim **22**.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims **7-10** and **22-30** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

it is unclear what the applicant intends to encompass with the presented "means" language as presented in their claims. This issue is further compounded when the specification as filed fails to draw any light on the claimed means and seems only to recite language similar to the presented claim language. For the purposes of examination the claimed means has been understood to encompass a hardware device functionally executing and displaying or utilizing the results of a stored program.

Claim **7** recites the limitation "the coordinates" in lines 11, 11, and 15 respectively.

Claim **22** and **23** recite the limitation "the first area" in lines 13 and 7.

Claim **22** and **23** recite the limitation "the second area" in lines 13 and 8.

Claim **23** recites the limitation "the movement speed" in lines 2, 5, and 7.

Claim **24** recites the limitation "the predetermined position of the view point" in line 4.

Claim **24** recites the limitation "the predetermined viewpoint" in line 8.

Claim **25** recites the limitation "the predetermined position of the view point" in line 2.

There is insufficient antecedent basis for these limitations in the presented claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims **7-10** and **22-30** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

Technological Arts Analysis

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, *the presented claims teach game proceeding means, setting means, outputting means, adjusting means, moving means, etcetera, without clearly setting forth at least one example of possible means. As the presented means maybe accomplished in either a purely hardware form or alternatively a purely software form they must be interpreted as encompassing both. Resultant thereof the above claims fail muster under the Technological*

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Arts Analysis for failing to employ a technological basis. It should however be noted that the remaining claims employ an information storage medium readable by computer and hence employ technology.

Useful, Concrete and Tangible Analysis

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. [*"Usefulness" may be evidenced by, but not limited to, a specific utility of the claimed invention. "Concreteness" may be evidenced by, but not limited to, repeatability and/or implementation without undue experimentation. "Tangibility" may be evidenced by, but not limited to, a real or actual effect.*]

In the present case, *the presented claims fail to yield a tangible and appreciable result. While the claims are directed to the processing of game data and the reduction of this data into a screen picture there is no recitation of this screen picture being displayed on an actual screen in claims 7-10. As set forth above absent guidance from the specification regarding the embodiment of the claimed "means" the "means" must be considered equivalent to an abstract idea equivalent to software without the supporting physical structure that fails to incorporate a tangible embodiment.*

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **7-10** and **22-30** are rejected under 35 U.S.C. 102(e) as being anticipated by Aoshima et al (US 6,241,524).

Regarding at least claim **7**, Aoshima teaches,
a game device for proceeding a game by placing objects related to the game
in a three-dimensional virtual space and by controlling said objects, comprising:

first game proceeding means for proceeding the game by controlling (Col 5:32-52) said objects in first game field in said three-dimensional virtual space (Figures 5, 9 & Col 7:38-8:2);

second game proceeding means for proceeding the game by controlling (Col 5:36-52 & Col 5:11-18) said objects in a second game field said three-dimensional virtual space (Figures 5, 9 & Col 7:38-8:2);

a cursor in said game field (Figure 1 "cross hairs");

cursor object forming means for forming a cursor object indicating a certain area of one of said first and second game fields as well as an area of the other game field corresponding to the certain area (Figure 3, & Elm 500, 510);

perspective transformation display means for forming screen picture by transforming the coordinates of each object in said first and second game fields existing within view of a viewpoint located in said three-dimensional virtual space (Figures 1,5, Col 7:62-8:5).

Regarding at least claim **22**, Aoshima teaches,

a game image processing method in a game device, wherein operation signals are collected from operating means operated by a player by using a CPU block's execution of an application software stored in memory, wherein on the basis of the operation signal, a process is conducted to proceed a game in a three-dimensional virtual space (Abstract & Figure 1) including at least first and second game fields that are stacked in layers (Figure 3 wherein field 66 is parallel to fields 76 and 78), drawing control information that forms game images, is outputted to a video block; wherein the video block conducts a drawing processing of game images on the basis of the drawing control information, and wherein the game images are outputted to displaying means (Figure 4), wherein said first and second game fields are divided into the first area and the second area such that each of the first area and the second area displays one unit of the objects, each of which is placed and moves in the first and second game fields; and wherein said application software includes a first game program that proceeds the game in the first game field and a second game program that proceeds the game in the second game field (Figure 2, 9 demonstrate diverse player locations in a multi tier field), comprising:

a step of, by the CPU block's execution of the application software controlling the position of a first object in accordance with the first game program, placing it in the relevant first area in the first game field, and thereby controlling the proceeding of the first game;

a step of, by using the CPU blocks execution of the application software, controlling the position of a second object in accordance with the second game program, placing it in the relevant second area in the second game field, and thereby controlling the proceeding of the second game (equivalent to the individual player tanks as realized in figure 2 and 9);

a step of displaying a cursor that points to one unit of the first area in the first game field (Figure 1 crosshair) on the basis of the operation signal, and choosing the first object placed in the first area (equivalent to targeting and/or firing at a target);

a step of calculating the second area that corresponds to the chosen first area (interpreted as the graphic process that would result from a first unit looking from 66 to 76);

a step of judging whether an event has occurred between the chosen first object and the second object placed in the second area that corresponds to the first area (Figure 10 and 11 understood encompass avatar-target interaction);

a step of executing the event processing when it is judged that the event has occurred (figure 11); and

a step of forming game images on the basis of the results of the event processing (figure 11 updating the display).

==

Regarding at least claim **23**, Aoshima teaches a three-dimensional game including multiple players as taught in the rejection of claim 1 above. As both players are capable of controlling their avatars (tank) speed in game the claimed proceeding

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speeds or scrolling speeds may be determined by both players in a mutually exclusive fashion. Alternatively as presented one common three-dimensional world might be separated along an axis or by three-dimensional object (i.e. the players tank juxtapose to the remaining components in the 3-d world) and would also be understood to meet the claimed language.

Regarding at least claim **24, 25** Aoshima teaches various means of altering viewpoints including the use of a viewpoint change button (Col 8:13-17) and the use of sub-displays (Fig 9 & Col 8:21-27) for reducing one game field and displaying the reduced field in the picture of the remaining game field. Further dependent on the defined boundary between the first and second fields discussed in the rejection of claim **23** above, the view point may shift responsive to the mere movement of the players avatar (tank) and hence cursor (crosshair) during the play of the game. The limitation of "controllable game objects" is met by any type of object control including computer controlled or opposing player controlled game objects.

Regarding at least claims **8** and **26**, Aoshima teaches a game world in figure 3 including a bottom portion 66 and a top portions 76, 78. When player one is located on the top portion and player two is location on the bottom portion the game fields are understood to conform to the claim cursor object forming means wherein the top level is one game field and the lower portion is the other game field.

Regarding at least claims **9** and **27**, Aoshima teaches the display realization of the three-dimensional world in figure 5, including the display of the game fields contained therein. When considered along with figures 1 and 8, the area immediately behind the players avatar (tank) is understood to represent a side face of the cursor object as so claimed. Player information is displayed on this side as shown in figure 8.

Regarding claims **28**, Aoshima teaches the displaying of area maps and radars (Col 8:20-27). The display of such a device must change the color of an area in order to be appreciably recognized by the player and hence provides a change in the color of the first area as viewed by the player.

Regarding at least claim **29**, Aoshima teaches the determination of game events based on player actions shown in figure 11-13. In particular the claim language reads on a first tank shooting at a second and the determination by the game CPU to determine if a counter attack is warranted.

Regarding at least claim **10**, Aoshima teaches the displaying and scaling of the game world dependent on the players position within the world. As the display scales are set to reflect the distance between the player's avatar and the field they are scaled and drawn to visually reflect this distance (Figure 5 7 Col 7:62-8:02).

Regarding claim **30** in addition to the above stated, Aoshima teaches
A game device comprising:
a memory (29) for storing the application software;

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a CPU block having means for collecting operation signals from operating means operated by a player(16, 18), which executes the application software and thereby conducts the process to proceed the game in the three-dimensional virtual space (Figure 1))including at least

the first and second game fields that are stacked in layers (Figure 3 wherein field 66 is parallel to fields 76 and 78),, and outputting drawing control information that forms game images;

a video block for conducting drawing processing of the game images on the basis of the drawing control information and outputting the game images to displaying means (Figure 4), wherein said first and second game fields are divided in the first area and the second area that each display one unit of the objects, each of which is placed and moves in the first and second game fields; and

wherein said application software includes a first game program that proceeds the game in the first game field and a second game program that proceeds the game in the second game field (Figure 2, 9 demonstrate diverse player locations in a multi tier field), wherein said CPU block comprises:

means for controlling the position of the first object in accordance with the first game program, placing it in the relevant first area in the first game field, and thereby controlling the proceeding of the first game;

means for controlling the position of the second object in accordance with the second game program, placing it in the relevant second area in the second game field, and thereby controlling the proceeding of the second game (Figures 2,3,5,6 & Elm s12

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Where in multiple fields where defined in the rejection of claim 22 above and the first and second objects may be two separate tanks);

means for displaying a cursor that points to one unit of the first area in the first game field on the basis of the operation signal, and for choosing the first object placed in the first area (Figures 1,2, and 5);

means for calculating the second area that corresponds to the chosen first area (Figures 3 & 5);

means for judging whether an event has occurred between the chosen first object and the second object placed in the second area that corresponds to the first area (Figures 6-7);

means for executing the event processing when it is judged that the event has occurred (Figures 6-7); and

means for forming game images on the basis of the results of the event processing, and wherein all of said means are realized by the execution of the application software in the CPU block (Figure 4) .

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM

Chanda L. Harris
CHANDA L. HARRIS
PRIMARY EXAMINER